

## **The Adoption and Safe Families Act November 17, 1997 PL 105-89**

Prior to adjournment for the year, the Congress of the United States passed the Adoption and Safe Families Act (ASFA) and it was signed into law by the President as Public Law 105-89 on November 19, 1997. Congress began its discussion about child welfare and adoption reform in the Spring of 1997 in response to growing numbers of children in the child welfare system, the length of time spent by children in foster care and the large numbers of children who waited in vain for an adoption opportunity.

ASFA continues most of the structural components of The Adoption Assistance and Child Welfare Act of 1980 (PL 96-272) while shortening timetables and providing new definitions. PL 96-272 emphasized family reunification, required regular and systematic judicial oversight of children in foster care, provided financial incentives for states to comply with the law and required that in order to receive federal money, reasonable efforts to prevent removal and to achieve reunification be made. ASFA did not displace the aspirations and goals of PL 96-272 but it did refocus our attention on the child welfare system by causing states to balance family preservation and reunification with the health and safety of children, which the act declares of paramount importance.

The new law reflects a clear shift from and emphasis on protracted reunification efforts to permanency at the earliest possible time. This change in emphasis does not pit reunification against permanency, but is a shift from process and procedure to outcomes. In addition to fiscal incentives, the act contains mandates and requires that states come into conformity with its provisions on a carefully arranged timetable.

Key provisions of the law:

- , Continues the requirement that reasonable efforts be made to prevent or eliminate the need for removing children from their homes or to make it possible for them to return home safely, but does not require reasonable efforts to be made in cases where there are aggravated circumstances. The act lists a number of aggravated circumstances and allows the state to exercise discretion in protecting the health and safety of children in cases other than those described in the act.
- , Changes the term Dispositional hearing to permanency planning hearing and requires that it be held at 12 months after a child enters foster care, rather than 18 months as in PL 96-272. A child is considered to have entered foster care to the earlier of the date of the first judicial finding of deprivation (i.e. adjudication) or to the date 60 days after the date on which the child is removed from the home.

- , States must initiate or join in termination proceedings for all children who have been in foster care for 15 out of the most recent 22 months but provides for circumstances in which it is not necessary to file such proceedings.
- , Re-authorized and expands the Family Preservation and Support Services program, renaming it *Promoting Safe and Stable Families*. Family reunification services are time limited to the 15- month period beginning on the date the child enters foster care.
- , Provides for adoption incentive payments to states that increase the number of adoptions of children in foster care as compared with a base year.
- , Requires that states provide health insurance coverage for all special needs children in subsidized adoptions, regardless of whether they are 4E adoptions.
- , States must have procedures for criminal records checks for prospective foster or adoptive parents before a child eligible for federal subsidies is placed with such prospective parents. States can avoid this requirement through passage of specific legislation or through written notification to the Governor to the Secretary of HHS.
- , States must develop plans for use of cross-jurisdictional adoption resources and may not deny or delay placement of a child for adoption when an approved family is available outside the jurisdiction responsible for handling the child's case.
- , States must develop standards to ensure that children in foster care are provided quality services.
- , References to the safety of a child must be included in planning a case review for children in foster care.
- , Foster parents, pre-adoptive parents, or relatives caring for children in foster care must be notified of and have the opportunity to be heard in any review process.
- , There are new requirements for data reporting and there will be *State Report Cards*.